THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.19346 of 1998

DATED: 31.07.2007

Between:

The Kondapi Gram Panchayat,
Kondapi, Kondapi Mandal,
Prakasam District rep. by its
Sarpanch

.. Petitioner

And

The Government of Andhra Pradesh,
Rep. by its Secretary,
Panchayat Raj and Rural Development
Department, Secretariat Buildings,
Hyderabad,
and others.

.. Respondents

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.19346 of 1998

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in issuing G.O.Ms.No.446 Panchayat Raj and Rural Development (Progs.IV), dated 26.11.1997, and consequential proceedings issued by the fourth respondent in Rc.No.A/140/98, dated 22.06.1998, as arbitrary and illegal.

It is the case of the petitioner that a poramboke land in an extent of Ac.0.06 cents in S.No.115 & 117/4A of Kondapi Village vests in Gram Panchayat, the petitioner herein. In the said area of 6 cents, there is a drinking well, which is the source of drinking water for the villagers, and the petitioner has installed a statue of Mahatma Gandhi in the said site and it has been in possession and enjoyment of the said site since a long time. While matters stood thus, the Gram Panchayat passed a resolution dated 15.12.1997 for construction of a bus shelter in the said site for the benefit of the passengers of the village and accordingly it obtained the administrative sanction of Divisional Panchayat Officer and technical sanction from the Executive Engineer, Panchayat Raj, Kandukur on 21.03.1998.

The main grievance of the petitioner is that the Government without following the statutory procedure passed G.O.Ms.No.446, dated 26.11.1997 according permission to Zilla Parishad to alienate the said site in favour of Mandal Panchayat, Kondapi, and basing on it,

the fourth respondent issued proceedings dated 22.06.1998 interfering with the possession of the Gram Panchayat and restraining the Gram Panchayat from proceeding with further construction. Hence, the petitioner filed this writ petition.

No doubt, the fourth respondent filed a counter affidavit stating that the Mandal Parishad is also taking the same decision of constructing a bus shelter in the said site as per the Collector's proceedings during the Janmabhoomi Programme held in May,1998, and there is no information with regard to the resolutions passed by the Gram Panchayat. Further, the fourth respondent stated that the land in question belongs to Zilla Parishad and it in turn allotted the same to the Mandal Parishad, Kondapi and the Gram Panchayat has no right to proceed with the construction of the bus shelter without the permission of the Mandal Parishad.

Heard both the counsel.

However, by virtue of the interim orders passed by this Court on 14.07.1998 directing stay of further proceedings pursuant to the impugned order dated 22.06.1998, the petitioner-Gram Panchayat completed the construction of a bus shelter in the land in question, and even according to the fourth respondent-Mandal Development Officer, Kondapi, the Mandal Parishad wanted to construct a bus shelter and hence it necessitated the Mandal Development Officer to issue the said proceedings on 22.06.1998.

In fact, the purpose of the Gram Panchayat as well as the Mandal Parishad was one and the same i.e., construction of a bus shelter in the said land for the benefit of passengers in the village, and

as the same is constructed, this Court is of the view that no further orders need be passed in this writ petition.

Subject to the above observations, this writ petition is closed.

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(GOPALA KRISHNA TAMADA,J)

Dt.31.07.2007
v v